

Applicant : Hubert Köster, Ph.D. et al.  
Serial No. : 10/760,085  
Filed : January 16, 2004

Attorney's Docket No.: 21121-009001 /2309  
Preliminary Amendment and Response to  
Communication Concerning  
Non-Responsive Amendment

## REMARKS

Any fees that may be due in connection with the filing of this paper or with this application may be charged to Deposit Account No. 06-1050. If a Petition for Extension of time is needed, this paper is to be considered such Petition.

### Response to Office Communication Concerning Non-Responsive Amendment

In the Response to Office Communication Concerning Non-Responsive Amendment, filed September 1, 2006, Applicant stated "The claims as amended herein read on the elected species". In the Notice of Non-Responsive Amendment, mailed November 20, 2006, the Examiner states that some of the listed claims do not read on the elected species. Applicant has reviewed the claims. Claims 1, 2, 5, 6, 10, 15, 25, 34, 38, 43, 75, 110, 116, 137, 139, 140, 144, 150, 151, 152, 157, 158, 159, 160, 161, 163, 164, 166, 169 and 173 read on the elected species.

Also, in reviewing the claims, a few inadvertent typographical errors were found. In order to advance prosecution, these are corrected herein. In addition, claims 78 and 79, which depend from a cancelled claim, are cancelled without prejudice or disclaimer. Applicant reserves the right to prosecute any cancelled subject matter in a continuing application. Claims 158 and 172 are amended to correct a typographical error. Basis for the amendment of claim 172 can be found, for example, at page 110, lines 26-28, of the specification. No new matter is added.

\* \* \*

In view of the amendments and remarks herein, examination on the merits is respectfully requested.

Respectfully submitted,



Stephanie Seidman  
Reg. No. 35,779

Attorney Docket No. 21121-009001/2309  
Address all correspondence to:  
Stephanie Seidman  
Fish & Richardson P.C.  
12390 El Camino Real  
San Diego, California 92130  
Telephone: (858) 678-4777  
Facsimile: (202) 626-7796  
email: seidman@fr.com  
10688005.doc